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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.12.2024

CORAM

**THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR**

Tr.C.M.P (MD).No.543 of 2024
and
C.M.P(MD)No.12971 of 2024

Abinaya : Petitioner

Vs.

M.Hariharan : Respondent

**PRAYER:** Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the case in H.M.O.P.No.132 of 2024 on the file of the Sub Court, Sivakasi and transfer the same to the file of the Sub Court, Srivaikundam.

For Petitioner : Mr.M.S.Jeyakarthik
For Respondent : Mr.V.Angu Samy

**O R D E R**

The Transfer Civil Miscellaneous Petition has been filed seeking orders to withdraw the case in H.M.O.P.No.132 of 2024 from the file of the Sub Court, Sivakasi and transfer the same to the file of the Sub Court, Srivaikundam.


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2. It is evident from the records that the marriage between the parties was solemnized on 01.09.2022. It is not in dispute that the respondent has filed a petition in H.M.O.P.No.132 of 2024, seeking divorce and is pending on the file of the Sub Court, Sivakasi.

3.The learned counsel for the petitioner would submit that the petitioner is residing at Eral, Thoothukudi District and finds it very difficult to travel from Eral to Sivakasi to attend the hearings and that therefore, she was constrained to file the above petition.

4.The learned counsel for the respondent would submit that the respondent is working in Tamil Nadu Mercantile Bank in Vandiyur Branch, Madurai and if the case is transferred, he has to travel more than 350 kms.

5.But the very same objection would also apply to the petitioner. The learned counsel for the petitioner would submit that the petitioner is having one year old child and she has to take care of her child.


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6. In the case of ***N.C.V.Aishwarya Vs. A.S.Saravana Karthik Sha*** reported in ***2022 Live Law (SC) 627***, the Hon'ble Supreme Court has reiterated the position with generally, it is the wife's convenience, which must be looked at while considering the transfer petition under Section 24 of the Code of Civil Procedure and the relevant passage is extracted hereunder :

> "*The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socioeconomic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.", the bench observed.*"

7. Considering the facts and circumstances of the case and taking note of the fact that the petitioner is residing at Eral, Thoothukudi District and she is having one year old baby, this Court decides that the case in


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H.M.O.P.No.132 of 2024 is ordered to be withdrawn from the file of the Sub Court, Sivakasi and transfer to the file of the Sub Court, Srivaikundam. The learned Subordinate Judge, Sivakasi, is hereby directed to transmit the entire records in H.M.O.P.No.132 of 2024 to the file of the Sub Court, Srivaikundam, within a period of 10 days from the date of receipt of a copy of this order and on receiving the case bundle, the learned Subordinate Judge, Srivaikundam, is directed to take up the petition on file and proceed in accordance with law.

8. With the above direction, the Transfer Civil Miscellaneous Petition stands allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

**10.12.2024**

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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**K.MURALI SHANKAR, J.**

DAS

To

1.The Subordinate Judge, Sivakasi.

2.The Subordinate Judge, Srivaikundam.

3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Tr.C.M.P (MD).No.543 of 2024
and
C.M.P(MD)No.12971 of 2024

10.12.2024


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